IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Revision No. 4801 of 2006

Date of Decision: 12.9.2006

Smt. Fahiman and others

...Petitioners.

Versus

Smt. Roshni and others

...Respondents.

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.

PRESENT: Mr. Lokesh Sinhal, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

In this revision petition filed under Article 227 of the Constitution of India, prayer is for quashing order dated 14.8.2006 (Annexure P-2) passed by the Motor Accident Claims Tribunal, Gurgaon (for short "the Tribunal") vide which the objection petition filed by the petitioners has been dismissed.

The Tribunal while dismissing the petition held that this is one of those cases where the petitioners had sought to misuse the process of the court against the widow whose husband had died in a motor vehicular accident on 13.10.1993 and the award for compensation of Rs.1,95,000/- along with interest passed on 18.8.2000 remains unexecuted till date. The Tribunal had further noted as under:-

> "The property was transferred by virtue of a relinquishment deed in favour of objectors on 31.7.2000, mutation on the basis of which was sanctioned on 16.8.2000, while

award was passed on 18.8.2000. Shahbudin, who was one of the respondents in expectation of passing of an award against him and to avoid its execution, when the case was at final stage, it can be known from the fact that the award was pronounced on 18.8.2000, mutation was sanctioned in favour of objectors on 16.8.2000, transferring his property in favour of his sons and wife. Perusal of the file shows that execution being filed, Shahbudin, one of the J.Ds was owner of the offending vehicle was served with notice and chose not to appear. It is not the case that the property had been transferred in favour of objectors before the accident took place or before the filing of claim petition. The property was transferred just two days before the passing of award and certainly by then Shahbudin had known that Insurance Company could be exonerated in view of the facts which had come on the file by then. The act of JD Shahbudin in transferring his property just two days before the passing of award, certainly during the pendency of claim petition, was an act of transferring his property with ulterior motive to avoid payment of compensation. Our own Hon'ble High Court in Surender Singh versus Omvati and others, 2005-3 PLR 748 in a similarly situated case where during the pendency of claim petition respondent suffered collusive decree in favour of his sons to avoid payment of compensation, it was held that the decree suffered with respect to property after the accident was liable to be attached and sold to satisfy the decree. Therefore, the objections filed by objectors are clearly an attempt to avoid

payment. It may not be out of place to mention here that during the course of arguments, learned counsel for objectors raised one of the arguments that issues be framed and thereafter objections be tried. This would have added another misery to the claimant-DH, who has been fighting for survival for the last 13 years and has been on the road, has still to face another trial, if issues have to be framed and trial had to start. It is apparent that it was another attempt on the part of objectors, who have been acting at the instance of JDs to delay execution proceedings. Thus, this court is of considered view that it was a gross misuse of process of court in delaying the payment of award and, thus, the objections are dismissed with costs of Rs.5000/-. Let property already attached be sold as per the procedure laid down."

Learned counsel for the petitioners has not been able to show as to why this property was transferred when the proceedings under the Motor Vehicles Act were pending against Shahbuddin just two days before the passing of the award. The Tribunal has rightly held that the same has been done in order to defeat the right of the claimants.

In view of the above, no case for exercise of revisional jurisdiction under Article 227 of the Constitution of India by this Court is made out. Finding no merit in this revision petition, the same is hereby dismissed.

September 12, 2006 **(AJAY KUMAR MITTAL)**
gbs **JUDGE**